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FACEBOOK, Inc.

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 IN RE:
14 FACEBOOK PRIVACY LITIGATION

Case No. 10-cv-02389-JW

**[PROPOSED] ORDER GRANTING
FACEBOOK, INC.'S MOTION TO
DISMISS CONSOLIDATED CLASS
ACTION COMPLAINT**

17 **DATE:** March 28, 2011
18 **TIME:** 9:00 a.m.
19 **COURTROOM:** 8 (4th Floor)
JUDGE: Hon. James Ware
TRIAL DATE: None Set

1 Defendant Facebook, Inc.'s motion to dismiss Plaintiffs' Consolidated Class Action
 2 Complaint was heard on March 28, 2011 at 9:00 a.m. in this Court. Counsel for Facebook and
 3 counsel for Plaintiffs were in attendance and presented oral arguments. Having considered the
 4 parties' papers filed in support of and in opposition to the motion, oral argument, and all other
 5 pleadings and papers on file herein, and good cause having been shown:

6 **IT IS HEREBY ORDER THAT,** Facebook's Request for Judicial Notice is
 7 **GRANTED.**

8 The Court further finds as follows:

9 Plaintiffs do not have standing under Article III of the United States Constitution to bring
 10 the present action.

11 With respect to the first claim for relief, for violation of the Wiretap Act (referred to in the
 12 Consolidated Class Action Complaint as the Electronic Communications Privacy Act), 18 U.S.C.
 13 § 2511, Plaintiffs fail to state a claim upon which relief can be granted.

14 With respect to the second claim for relief, for violation of the Stored Communications
 15 Act, 18 U.S.C. § 2702, Plaintiffs fail to state a claim upon which relief can be granted.

16 With respect to the third claim for relief, for violation of California Business and
 17 Professions Code section 17200, Plaintiffs fail to state a claim upon which relief can be granted.

18 With respect to the fourth claim for relief, for violation of California Penal Code § 502,
 19 Plaintiffs fail to state a claim upon which relief can be granted.

20 With respect to the fifth claim for relief, for violation of California Civil Code § 1750,
 21 Plaintiffs fail to state a claim upon which relief can be granted.

22 With respect to the sixth claim for relief, for breach of contract, Plaintiffs fail to state a
 23 claim upon which relief can be granted.

24 With respect to the seventh claim for relief, for violation of California Civil Code sections
 25 1572 and 1573, Plaintiffs fail to state a claim upon which relief can be granted.

26 With respect to the sixth claim for relief, for unjust enrichment, Plaintiffs fail to state a
 27 claim upon which relief can be granted.

28

Accordingly, IT IS FURTHER HEREBY ORDERED THAT:

Facebook, Inc.'s Motion to Dismiss the Consolidated Class Action Complaint is **GRANTED**; and

Plaintiffs' Consolidated Class Action Complaint and all claims for relief alleged therein
are hereby **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

DATED: _____

**THE HONORABLE JAMES WARE
UNITED STATES DISTRICT JUDGE**

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